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EXAMINER

WINTER, JOHN M

ART UNIT PAPER NUMBER

3621

DATE MAILED: 10/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/578,257

Applicant(s)

SKUBIC ET AL.

Examiner

John M Winter

Art Unit

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NW

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 August 2004.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 7-11, 14-18, 21, 24, 25, 27-31 and 33-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 7-11, 14-18, 21, 24, 25, 27-31, 33-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

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DETAILED ACTION

Status

Claims 7-11, 14-18, 21, 24, 25, 27-31,33-39 remain pending.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action

Response to Arguments

The Applicants arguments filed on August 3, 2004 have been fully considered but are not persuasive.

As per Claims 7-11, 14-18, 21, 24, 25, 27-31,33-39

The Applicant states that the cited combination of the Pare, Jr and Davis references do not teach an electronic portrait that enables generation of a physical identifier for comparison to the buyer by a seller.

The Examiner responds that as per the previous action the Davis reference discloses the electronic portrait enabling generation of a physical identifier for comparison to the buyer by a seller;(Column 4, lines 37-57), specifically Davis states that "*when comparison of visual biometric characteristic are used*", there is no language or limitation in the claimed invention that necessitates that the comparison be performed by a human being, the examiner concludes that this process may be performed by any means available to the seller, including computerized and automated systems. Furthermore Davis discloses utilizing a CCD camera to capture physical attributes of the user this procedure is analogous to generating a physical identifier.

The Davis reference discusses a method for biometric authentication of a users identity, the Pare Jr. reference discloses a method for tokenless authentication of commercial transaction; as per *Ex parte Clapp*, 227 USPQ 972 (Bd Pat App & Int) "To support conclusion that claimed combination is directed to obvious subject matter, the references must either expressly or impliedly suggest claimed combination or the examiner must present a convincing line of reasoning as to why artisan would have found claimed invention to have been obvious in light of the references teachings.", the Examiner states these references deal with the generalized problem of biometric authentication and the combination of these references would therefore be obvious to a person of ordinary skill in the art.

See following rejection.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7-11, 14-16, 18, 21, 24, 25, 27, 29-31, 33 and 35-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pare Jr, et al. (US patent 5,870,723) in view of Davis (US Patent 6,181,803).

As per claim 7,

Pare, Jr et al ('723) discloses a method for enabling identification of a buyer during a transaction the method comprising the steps of:

generating an electronic portrait of a buyer, (column 15, lines 64-66)

wherein the electronic portrait comprises at least one of:

an electronic photo of the buyer; a graphic imprint of the buyer; a mathematical imprint of the buyer; a verbal description of the buyer; an electronic audio imprint of the buyer; and an electronic video imprint of the buyer. (column 15, lines 60-67; column 16, lines 1-4)

Pare, Jr et al ('723) does not specifically disclose the electronic portrait enables generation of a physical identifier for comparison to the buyer by a seller. Davis ('803) discloses the electronic portrait enables generation of a physical identifier for comparison to the buyer by a seller; (Column 4, lines 37-57) It would be obvious to one having ordinary skill in the art at the time of the invention to combine Pare Jr. et al's method with Davis ('803)'s teaching of enabling generation of a physical identifier for comparison to the buyer by a seller in order to prevent sellers from being the victims of fraudulent activities performed by customer who misrepresent themselves.

transmitting the electronic portrait to a seller via a wireless interface during a transaction. (figure 2)

storing the electronic portrait at a remote location (Column 25, lines 12-36) accessible via the personal device (Pare Jr discloses a personal device -- Column 11, lines 11-26)

storing an identifier within the personal device enabling access to the electronic portrait at the remote location (Column 25, lines 12-36)

As per claim 9

Pare, Jr et al ('723) discloses a method for enabling identification of a buyer during a transaction, comprising the steps of:

transmitting an identifier enabling access to a remote location from a personal device containing an electronic portrait. (Column 25, lines 12-36)

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wherein the electronic portrait comprises at least one of:
an electronic photo of the buyer; a graphic imprint of the buyer; a mathematical imprint of the buyer; a verbal description of the buyer; an electronic audio imprint of the buyer; and an electronic video imprint of the buyer.(column 15, lines 60-67; column 16, lines 1-4)

receiving the electronic portrait from a remote location.(Column 25, lines 12-36)

Pare, Jr et al ('723) does not specifically disclose the electronic portrait enables generation of a physical identifier for comparison to the buyer by a seller. Davis ('803) discloses the electronic portrait enables generation of a physical identifier for comparison to the buyer by a seller;(Column 4, lines 37-57) It would be obvious to one having ordinary skill in the art at the time of the invention to combine Pare Jr. et al's method with Davis ('803)'s teaching of enabling generation of a physical identifier for comparison to the buyer by a seller in order to prevent sellers from being the victims of fraudulent activities performed y customer who misrepresent themselves.

Official notice is taken that it is old and well know in the art of customer authentication to displaying the physical identifier to the seller using equipment of the seller. It would be obvious to one having ordinary skill in the art at the time of the invention to display the physical identifier to the seller using equipment of the seller in order to reduce the amount of equipment in the consumer's possession

Official notice is taken that it is old and well know in the art of customer authentication to complete the transaction if the physical identifier corresponds to the buyer. It would be obvious to one having ordinary skill in the art at the time of the invention to complete the transaction if the physical identifier corresponds to the buyer in order for the seller to make a profit.

As per claim 10

Pare, Jr et al ('723) discloses the method of Claim 9,
Official notice is taken that it is old and well know in the art of customer authentication to interconnect with a personal device containing the electronic portrait via the bluetooth interface. It would be obvious to one having ordinary skill in the art at the time of the invention to interconnect with a personal device containing the electronic portrait via the bluetooth interface in order allow the consumer to have the convenience of not carrying a cable.

As per claim 11

Pare, Jr et al ('723) discloses the method of Claim 9,
Official notice is taken that it is old and well know in the art of customer authentication to decrypt the electronic portrait. It would be obvious to one having ordinary skill in the art at the time of the invention to decrypt the electronic portrait to allow the portrait to be rendered in a human readable format.

As per claim 14

Pare, Jr et al ('723) discloses the method of Claim 9,
Official notice is taken that it is old and well know in the art of customer authentication to comparing the physical identifier to the buyer. It would be obvious to one having ordinary

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skill in the art at the time of the invention to compare the physical identifier to the buyer in order to prevent fraud.

As per claim 15,
Pare, Jr et al ('723) discloses the method of Claim 9,
further comprises receiving from the personal device which is located in a shielded area.
(column 6, lines 12-21,30-31)

As per claim 16,
Pare, Jr et al ('723) discloses a method for enabling identification of a buyer during a transaction comprising the steps of :

Receiving an identifier enabling access to a location remote from the personal device containing the electronic portrait, accessing the electronic portrait using the identifier (Column 25, lines 12-36)

wherein the electronic portrait comprises at least one of:
an electronic photo of the buyer; a graphic imprint of the buyer; a mathematical imprint of the buyer; a verbal description of the buyer; an electronic audio imprint of the buyer; and an electronic video imprint of the buyer.(column 15, lines 60-67; column 16, lines 1-4)

Pare, Jr et al ('723) does not specifically disclose the electronic portrait enables generation of a physical identifier for comparison to the buyer by a seller. Davis ('803) discloses the electronic portrait enables generation of a physical identifier for comparison to the buyer by a seller;(Column 4, lines 37-57) It would be obvious to one having ordinary skill in the art at the time of the invention to combine Pare Jr. et al's method with Davis ('803)'s teaching of enabling generation of a physical identifier for comparison to the buyer by a seller in order to prevent sellers from being the victims of fraudulent activities performed by customer who misrepresent themselves.

Official notice is taken that it is old and well known in the art of customer authentication to displaying the physical identifier to the seller using equipment of the seller. It would be obvious to one having ordinary skill in the art at the time of the invention to display the physical identifier to the seller using equipment of the seller in order to reduce the amount of equipment in the consumer's possession

Official notice is taken that it is old and well known in the art of customer authentication to complete the transaction if the physical identifier corresponds to the buyer. It would be obvious to one having ordinary skill in the art at the time of the invention to complete the transaction if the physical identifier corresponds to the buyer in order for the seller to make a profit.

As per claim 18,
Pare, Jr et al ('723) discloses a method for enabling identification of a buyer during a transaction comprising the steps of :

generating an electronic portrait of a buyer,(column 15, lines 64-66)

wherein the electronic portrait comprises at least one of:
an electronic photo of the buyer; a graphic imprint of the buyer; a mathematical imprint of the buyer; a verbal description of the buyer; an electronic audio imprint of the buyer; and an electronic video imprint of the buyer.(column 15, lines 60-67; column 16, lines 1-4)

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transmitting the electronic portrait to a seller via a wireless interface during a transaction.(figure 2)

storing the electronic portrait at a remote location (Column 25, lines 12-36) accessible via the personal device (Pare Jr discloses a personal device -- Column 11, lines 11-26)

storing an identifier within the personal device enabling access to the electronic portrait at the remote location (Column 25, lines 12-36)

establishing a wireless communications link between a personal device and the seller (column 14, lines 1-16)

receiving the electronic portrait from a buyer via a wireless communications link. (figure 2)

Pare, Jr et al ('723) does not specifically disclose the electronic portrait enabling generation of a physical identifier for comparison to the buyer by a seller. Davis ('803) discloses the electronic portrait enabling generation of a physical identifier for comparison to the buyer by a seller;(Column 4, lines 37-57) It would be obvious to one having ordinary skill in the art at the time of the invention to combine Pare Jr. et al's method with Davis ('803)'s teaching of enabling generation of a physical identifier for comparison to the buyer by a seller in order to prevent sellers from being the victims of fraudulent activities performed y customer who misrepresent themselves.

Pare, Jr et al ('723) does not specifically disclose "provides a physical identifier of the buyer". Davis ('803) discloses "provides a physical identifier of the buyer" (Column 4, lines 37-57) It would be obvious to one having ordinary skill in the art at the time of the invention to combine Pare Jr. et al's method with Davis ('803)'s teaching of enabling generation of a physical identifier for comparison to the buyer by a seller in order to prevent sellers from being the victims of fraudulent activities performed y customer who misrepresent themselves.

Official notice is taken that it is old and well know in the art of customer authentication to displaying the physical identifier to the seller using equipment of the seller. It would be obvious to one having ordinary skill in the art at the time of the invention to display the physical identifier to the seller using equipment of the seller in order to reduce the amount of equipment in the consumer's possession

Official notice is taken that it is old and well know in the art of customer authentication to complete the transaction if the physical identifier corresponds to the buyer. It would be obvious to one having ordinary skill in the art at the time of the invention to complete the transaction if the physical identifier corresponds to the buyer in order for the seller to make a profit.

As per claim 21

Pare, Jr et al ('723) discloses the method of Claim 18,

Official notice is taken that it is old and well know in the art of customer authentication to decrypt the electronic portrait. It would be obvious to one having ordinary skill in the art at the time of the invention to decrypt the electronic portrait in order to verify the buyers identity.

As per claim 24

Pare, Jr et al ('723) discloses the method of Claim 18,

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Official notice is taken that it is old and well known in the art of customer authentication to compare the physical identifier to the buyer. It would be obvious to one having ordinary skill in the art at the time of the invention to compare the physical identifier to the buyer in order for the seller to make a profit.

As per claim 25

Pare, Jr et al ('723) discloses the method of Claim 18, further comprises receiving from the personal device which is located in a shielded area. (column 6, lines 12-21,30-31)

As per claim 27,

Pare, Jr et al ('723) discloses the method of Claim 18, wherein the step of receiving further includes the steps of:

Receiving an identifier enabling access to a location remote from the personal device containing the electronic portrait (Column 25, lines 12-36)

Accessing the electronic portrait using the identifier.(Column 25, lines 12-36)

As per claim 29,

Pare, Jr et al ('723) discloses an electronic personal device enabling identification of a buyer during a transaction comprising:

a memory;(column 12 line 30)

an identifier enabling access (Column 25, lines 12-36) to an electronic portrait stored within a remote location (Column 25, lines 12-36)

wherein the electronic portrait comprises at least one of:

an electronic photo of the buyer; a graphic imprint of the buyer; a mathematical imprint of the buyer; a verbal description of the buyer; an electronic audio imprint of the buyer; and an electronic video imprint of the buyer.(column 15, lines 60-67; column 16, lines 1-4)

(column 15, lines 64-66, -- column 23, lines 59-67 in regards to the specific aspect of a service module)

transmission circuitry enabling a wireless communications link between the buyer and the seller for transmission of the electronic portrait.(column 14, lines 5-16)

Pare, Jr et al ('723) does not specifically disclose "provides a physical identifier of the buyer". Davis ('803) discloses "provides a physical identifier of the buyer" (Column 4, lines 37-57) It would be obvious to one having ordinary skill in the art at the time of the invention to combine Pare Jr. et al's method with Davis ('803)'s teaching of enabling generation of a physical identifier for comparison to the buyer by a seller in order to prevent sellers from being the victims of fraudulent activities performed by customer who misrepresent themselves.

As per claim 30,

Pare, Jr et al ('723) discloses the method according to Claim 29, further including a public key with the electronic portrait.(column 19, lines 30-37)

As per claim 31,

Pare, Jr et al ('723) discloses the electronic personal device of Claim 29,

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wherein the electronic portrait is part of a certificate.(figure 6)

As per claim 33,

Pare, Jr et al ('723) discloses the method of Claim 29,

Wherein the personal device comprises a mobile telephone.(column 14, lines 20-32)

As per claim 35,

Pare, Jr et al ('723) discloses the method according to Claim 7, further including the step of including an encryption key with the electronic portrait.(figure 5)

As per claim 36,

Pare, Jr et al ('723) discloses the method according to Claim 7, further including the step of including a public key with the electronic portrait.(column 19, lines 30-37)

As per claim 37,

Pare, Jr et al ('723) discloses the method according to Claim 7,

Official notice is taken that it is old and well know in the art of customer authentication to include a private key associated with the electronic portrait. It would be obvious to one having ordinary skill in the art at the time of the invention to include a private key associated with the electronic portrait in order to allow the customer to prove his identity.

As per claim 38,

Pare, Jr et al ('723) discloses the method according to Claim 29,

Official notice is taken that it is old and well know in the art of customer authentication to include a private key associated with the electronic portrait. It would be obvious to one having ordinary skill in the art at the time of the invention to include a private key associated with the electronic portrait in order to allow the customer to prove his identity.

As per claim 39,

Pare, Jr et al ('723) discloses the method according to Claim 1, further including an encryption key associated with the electronic portrait.(figure 5)

Claims 8,17, 28 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pare Jr, et al. (US patent 5,870,723) in view of Davis (US Patent 6,181,803) and further in view of Philips Bluetooth.

As per claim 8,

Pare, Jr et al ('723) discloses the method of Claim 7,

Pare, Jr et al ('723) does not specifically discloses wherein interface comprises a Bluetooth interface. Philips Bluetooth discloses wherein interface comprises a Bluetooth interface. It would be obvious to one having ordinary skill in the art at the time of the invention to combine Pare Jr. et al's method with the Philips Bluetooth teaching of using a Bluetooth interface in order to provide authentication services to consumers who are mobile.

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As per claim 17,

Pare, Jr et al ('723) discloses the method of Claim 9, Pare, Jr et al ('723) does not specifically disclose wherein interface comprises a Bluetooth interface. The Philips Bluetooth article discloses wherein interface comprises a Bluetooth interface. It would be obvious to one having ordinary skill in the art at the time of the invention to combine Pare Jr. et al's method with the Philips Bluetooth article teaching of using a Bluetooth interface to provide authentication services to consumers who are mobile.

As per claim 28,

Pare, Jr et al ('723) discloses the method of Claim 18, Pare, Jr et al ('723) does not specifically disclose wherein the wireless interface comprises a Bluetooth interface. The Philips Bluetooth article discloses wherein the wireless interface comprises a Bluetooth interface. It would be obvious to one having ordinary skill in the art at the time of the invention to combine Pare Jr. et al's method with the Philips Bluetooth article teaching of using a Bluetooth interface to provide authentication services to consumers who are mobile.

As per claim 34,

Pare, Jr et al ('723) discloses the electronic personnel device of Claim 29, Pare, Jr et al ('723) does not specifically disclose wherein the wireless communication link comprises a Bluetooth interface. BT article discloses wherein interface comprises a Bluetooth interface. It would be obvious to one having ordinary skill in the art at the time of the invention to combine Pare Jr. et al's method with BT article teaching of using a Bluetooth interface in order to provide authentication services to consumers who are mobile.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John M Winter whose telephone number is (703) 305-3971. The examiner can normally be reached on M-F 8:30-6, 1st Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James P Trammell can be reached on (703)305-9768. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

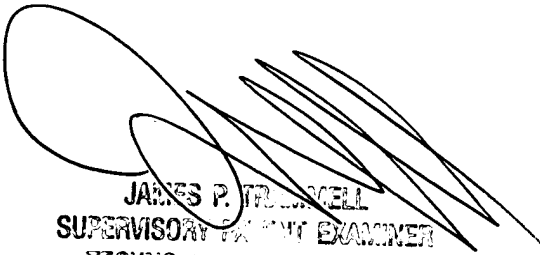
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JMW

October 18, 2004


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